

**SAMPLE CONTRACT DEFAULT LETTER
(5/ 2005)**

INSTRUCTIONS: REVISE OR DELETE AS NEEDED.

WHEN THERE ARE PROBLEMS WITH A CONTRACT, YOU NEED NOTIFY THE CONTRACTOR IN WRITING AND DEMAND A REMEDY. REMEDY IS A PROCEDURE TO REDRESS A WRONG OR OBTAIN RELIEF FROM A GRIEVANCE. DOCUMENT ALL CONVERSATIONS WITH THE CONTRACTOR. YOU MUST ESTABLISH A CONTRACT ADMINISTRATION PAPER TRAIL.

INFORM THE CONTRACTOR THAT THEIR PERFORMANCE IS NOT ACCEPTABLE AND DEMAND A REMEDY. ESTABLISH DEADLINES FOR CORRECTING DEFICIENCIES. EXPLAIN WHAT WILL HAPPEN IF THE DEFICIENCIES ARE NOT CORRECTED.

SEND THE LETTER BY CERTIFIED MAIL WITH A RETURN RECEIPT REQUESTED.

IF THE CONTRACTOR DOES NOT CORRECT THE PROBLEMS, YOU MAY NEED TO TERMINATE THE CONTRACT FOR CAUSE.

BE SURE TO INFORM THE STATE PROCUREMENT OFFICE IF THE CONTRACTOR'S PERFORMANCE IS NOT ACCEPTABLE. THE VENDOR MAY BE SUSPENDED OR DEBARRED FROM THE STATE BIDDERS LIST. TO INITIATE A SUSPENSION OR DEBARMENT, SUBMIT A COMPLAINT FORM TO THE OMB STATE PROCUREMENT OFFICE.

DELETE ALL INSTRUCTIONS BEFORE PRINTING.

**STATE OF NORTH DAKOTA
AGENCY OR INSTITUTION NAME
ADDRESS
CITY, STATE, ZIP
TELEPHONE AND FAX NUMBER**

DATE

Certified Mail No. _____ **Return Receipt Requested**

**CONTRACTOR'S LEGAL NAME
CONTACT PERSON
ADDRESS
CITY, STATE, ZIP CODE**

Dear **CONTACT PERSON**:

This is to advise you that **CONTRACTOR'S LEGAL NAME** has failed to comply with the terms and conditions of its contract with the State, **INSERT CONTRACT NUMBER AND TITLE**. The purpose of this letter is to demand corrective action.

INSTRUCTIONS: REVISE OR DELETE

**REFERENCE THE COMPETITIVE SOLICITATION THAT RESULTED IN THE
CONTRACT AWARD. DELETE IF THERE WAS NO COMPETITIVE
PROCESS.**

The award of the contract was based upon your firm's response to **[INSERT INVITATION TO BID OR REQUEST FOR PROPOSAL, CONTRACT NUMBER, TITLE]**. This solicitation was incorporated into the contract by reference.

**INSTRUCTIONS: DESCRIBE THE REQUIREMENT THAT THE
CONTRACTOR HAS FAILED TO MEET. REFERENCE THE APPROPRIATE
SECTION IN THE SOLICITATION OR CONTRACT. DESCRIBE HOW THE
CONTRACTOR'S PERFORMANCE HAS BEEN DEFICIENT.**

Your firm has failed to meet the following requirements.

Example:

Contract, Item 12. Delivery, required delivery within 30 calendar days after the receipt of the order. The order was placed with your firm on May 1, 2005. As of today, June 3, 2005, we have not received delivery.

The terms and conditions of the solicitation, ITB No. XXX, Page 3, Item 16. Default, states, "In case of default by the contractor, for any reason whatsoever, the State of North Dakota may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law."

NOTE: DEMAND CORRECTIVE ACTION.

Example:

Your firm must provide delivery

NOTE: REFERENCE THE SECTIONS OF THE SOLICITATION OR CONTRACT THAT DESCRIBED ACTIONS THAT WOULD BE TAKEN IN THE EVENT OF DEFAULT

Contract, Item 10. Default, states that if your firm fails to deliver make delivery within XX calendar days after the receipt of this letter, the State will have no choice but to consider your firm in default and terminate the contract. If that occurs, the State will procure the **[NEEDED COMMODITIES OR SERVICES]** from another source and your firm will be responsible for any additional cost, if there is a difference between your contract price and the actual from another source. The State may also consider your firm to be a nonresponsible bidder on future solicitations based on its failure to perform under the terms and conditions of this contract, and your firm may be suspended or debarred from the state bidders list.

NOTE: ESTABLISH A DEADLINE FOR RESPONDING TO THE LETTER AND CORRECTING THE DEFICIENCY.

This matter requires your immediate attention. Please respond to this letter in writing by **DEADLINE**. If you have any questions or need additional information, please contact me at 701-XXX-XXXX.

Sincerely,

INSERT NAME
Procurement Officer